

Revision: HCFA-PM-90-2 (BPD)
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OMB No.: 0938-0193

State/Territory: NEVADA

Citation

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| 1919(h)(1) and (2) of the Act, P.L. 100-203 (Sec.4213(a)) | 4.35 | <p><u>Remedies for Skilled Nursing and Intermediate Care Facilities that Do Not Meet Requirements of Participation</u></p> <p>(a) The Medicaid agency meets the requirements of section 1919(h)(2)(A) through (D) of the Act concerning remedies for skilled nursing and intermediate care facilities that do not meet one or more requirements of participation. <u>ATTACHMENT 4.35-A</u> describes the criteria for applying the remedies specified in section 1919(h)(2)(A)(i) through (iv) of the Act.</p> <p>— Not applicable to intermediate care facilities; these services are not furnished under this plan.</p> |
| 1919(h)(2)(B)(ii) of the Act | <u>X</u> | <p>(b) The agency uses the following remedy(ies):</p> <p>(1) Denial of payment for new admissions.</p> <p>(2) Civil money penalty.</p> <p>(3) Appointment of temporary management.</p> <p>(4) In emergency cases, closure of the facility and/or transfer of residents.</p> |
| 1919(h)(2)(F) of the Act | — | <p>(c) The agency establishes alternative State remedies to the specified Federal remedies (except for termination of participation). <u>ATTACHMENT 4.35-B</u> describes these alternative remedies and specifies the basis for their use.</p> <p>(d) The agency uses one of the following incentive programs to reward skilled nursing or intermediate care facilities that furnish the highest quality care to Medicaid residents:</p> <p>— (1) Public recognition.</p> <p>— (2) Incentive payments.</p> |

TN No. 90-13
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Revision: HCFA-PM-95-4 (HSQB)
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Citation 4.35 Enforcement of compliance for Nursing Facilities

42 CFR (a) Notification of Enforcement Remedies
488.402(f)

When taking an enforcement action against a non-State operated NF, the State provides notification in accordance with 42 CFR 488.402(f).

(i) The notice (except for civil money penalties and State monitoring) specifies the:

- (1) nature of compliance,
- (2) which remedy is imposed,
- (3) effective date of the remedy, and right to appeal the determination leading to the remedy.
- (4) Right to appeal the determination leading to the remedy.

42 CFR (ii) The notice for civil money penalties is in writing and contains the 488.434
information specified in 42 CFR 488.434.

42 CFR (iii) Except for civil money penalties and State monitoring, notice is given
488.402(f)(2) at least 2 calendar days before the effective date of the enforcement
remedy for immediate jeopardy situations and at least 15 calendar
days before the effective date of the enforcement remedy when
immediate jeopardy does not exist.

42 CFR (iv) Notification of termination is given to the facility and to the public at
least 2 calendar days before the remedy's effective date if the
noncompliance constitutes immediate jeopardy and at least 15
calendar days before the remedy's effective date if the noncompliance
does not constitute immediate jeopardy. The State must terminate the
provider agreement of an NF in accordance with procedures in parts
431 and 422.

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Citation 4.35 Enforcement of Compliance for Nursing Facilities
(continued)

(b) Factors to be Considered in Selecting Remedies

42 CFR
488.404(b)(1)
and (2)

(i) In determining the seriousness of deficiencies, the State considers the factors specified in 42 CFR 488.404(b)(1) and (2).

x The State considers additional factors. Attachment 4.35-A describes the States other factors.

(c) Application of Remedies

42 CFR
448.410

(i) If there is immediate jeopardy to resident health or safety, the State terminates the NF's provider agreement within 23 calendar days from the date of the last survey or immediately imposes temporary management to remove the threat within 23 days.

42 CFR
488.417(b)
1919(h)(2)(c)
of the Act.

(ii) The State imposes the denial of payment (or its approved alternative) with respect to any individual admitted to an NF that has not come into compliance within 3 months after the last day of the survey.

42 CFR
488.414
1919(h)(2)(d)
of the Act.

(iii) The State imposes the denial of payment for new admissions remedy as specified in 488.417 (or its approved alternative) and a state monitor as specified at 488.422, when a facility has been found to have provided substandard quality of care on the last three consecutive standard survey.

42 CFR
448.408
1919(h)(2)(A)
the Act.

(iv) The State follows the criteria specified at 42 CFR 488.408(c)(2), 488.408(d)(2), and 488.408(e)(2), when it imposes remedies in place or in addition to of termination.

42 CFR
488.412(a)

(v) When immediate jeopardy does not exist, the State terminates an NF's provider agreement no later than 6 months from the finding of noncompliance, if the conditions of 42 CFR 488.412(a) are not met.

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Citation

4.35 Enforcement of Compliance for Nursing Facilities
(Continued)

42 CFR
488.406(b)
1919(h)(2)(A)
of the Act.

(d) Available Remedies

(i) The State has established the remedies defined in
42 CFR 488.406(b).

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| <u> x </u> | (1) | Termination |
| <u> x </u> | (2) | Temporary Management |
| <u> x </u> | (3) | Denial of Payment for New Admissions |
| <u> x </u> | (4) | Civil Money Penalties |
| <u> x </u> | (5) | Transfer of Residents; Transfer of Residents with Closure of Facility |
| <u> x </u> | (6) | State Monitoring |

Attachments 4.35-B through 4.35-G describe the
criteria for applying the above remedies.
Nevada Revised Statutes NRS 449.163 through
449.170 are the authority for remedies cited above.

42 CFR
488.406(b)

(ii) The State uses alternative remedies.
The State has established alternative
remedies that the State will impose in
place of a remedy specified in 42 CFR
488.406(b).

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| <u> </u> | (1) | Temporary Management |
| <u> </u> | (2) | Denial of Payment for New Admissions |
| <u> </u> | (3) | Civil Money Penalties |
| <u> </u> | (4) | Transfer of Residents; Transfer of Residents with Closure of Facility |
| <u> </u> | (5) | State Monitoring |

Attachments 4.35-B through 4.35-G describe
the criteria for applying the above remedies.

42 CFR
488.303(b)
1919(h)(2)(F)
of the Act.

(e) State Incentive Programs

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| <u> </u> | (1) | Public Recognition |
| <u> </u> | (2) | Incentive Payments |

Not Applicable

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